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Before the
Federal Communications Commission
Washington, D.C. 20554

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF SECRETARY

In the Matter of)
)
Revision of Part 2 of the) ET Docket No. 94-45
Commission's rules relating to the) RM-8125
marketing and authorization of)
radio frequency devices.)

To: The Commission

Comments of The Ericsson Corporation

The Ericsson Corporation, on behalf of itself and its subsidiaries and affiliates (hereinafter collectively referred to as "Ericsson"), by its attorney, hereby submits its comments in the above-captioned *Notice of Proposed Rule Making*.¹ In support thereof, Ericsson states as follows:

Ericsson is a manufacturer of telecommunications equipment and systems, including radio base station and terminal equipment for a wide variety of CMRS and PMRS voice and data services. It also manufactures transmission and switching equipment used by LECs, IXCs and CAPs. As such, Ericsson is qualified to comment in this proceeding.

Ericsson fully supports the Commission's proposals to amend its marketing regulations which, subject to certain specified

¹ *Notice of Proposed Rule Making, In the Matter of Revision of Part 2 of the Commission's rules relating to the marketing and authorization of radio frequency devices, ET Docket No. 94-45, RM-8125, 9 FCC Rcd 2702 (released June 9, 1994) (hereinafter "NPRM").*

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conditions, generally will allow manufacturers to enter into conditional sales contracts²; advertise or display RF devices at trade shows³; announce and offer for sale solely to business, commercial and ISM users RF devices which are in the conceptual, developmental, design or preproduction stages⁴; and operate any RF devices to determine compliance with applicable technical requirements, for demonstration at trade shows and for evaluation at manufacturers' or customers' locations⁵.

These proposals will accomplish the Commission's goal of harmonizing the marketing rules for all RF devices thus making the Commission's rules more equitable in general. Moreover, the Commission's proposals will protect the public by ensuring that (1) prospective purchasers of RF devices are aware that certain items of equipment are not yet compliant with the Commission's rules and (2) no RF device is actually delivered for commercial use until and unless the device has received the appropriate equipment authorization from the Commission.

However, in Ericsson's view the Commission's proposal serves the public interest most significantly by enabling manufacturers, service providers and/or end users to keep up with the pace of technology development on the one hand, without allowing the

² Proposed Section 2.803(b).

³ Proposed Section 2.803(c).

⁴ Proposed Section 2.803(d).

⁵ Proposed Section 2.803(e)(1)-(6).

regulatory process to delay implementation of service to the public, on the other hand.

As just one example, today the Commission is doing everything in its power to issue PCS licenses at the earliest possible time so the public will receive the benefits of new narrowband, broadband and unlicensed wireless technologies as quickly as possible. For the past few years prospective service providers and manufacturers have been working to refine the specific services PCS will provide as well as the technologies which, in the opinion of prospective service providers, will best meet the needs of their subscribers. Due to the fact that there are a number of competing technologies being evaluated to provide PCS services, it is important for manufacturers and prospective service providers to evaluate the operational characteristics of any system in a real world situation. This is especially true when new, innovative technologies are being developed. It is equally important for manufacturers to be able to offer equipment for sale and enter into conditional sales contracts in advance of receiving an equipment authorization to ensure that systems can be delivered to service providers at the very earliest possible time subsequent to the licensing process. Ericsson believes adoption of the Commission's rules will accomplish the foregoing goals.

Notwithstanding the foregoing, Ericsson suggests the Commission make one editorial change to more accurately reflect what it perceives to be the intent of Section 2.803.

Specifically, Ericsson believes the provisions of Sections 2.803 (b)-(f) are intended to enable equipment manufacturers to import into the U.S. non-compliant RF devices as long as the requirements of Sections 2.803(b)-(g) are met. However, because the Section 2.803(a) provision which allows the importation of RF devices is expressly applicable only to devices which have required equipment authorizations and Sections 2.803(b)-(f) do not expressly allow the importation of RF devices⁶, Ericsson proposes the following modification to Section 2.803(a):

(a) Except as otherwise permitted under subsections 2.803(b)-(f), [n]o person shall sell or lease, or offer for sale or lease (including advertising for sale or lease), or import, ship or distribute for the purpose of selling or leasing or offering for sale or lease, any radio frequency device unless:....

Commission modification of Section 2.803 as described above will ensure that there is no ambiguity in Section 2.803 and, further

⁶ Arguably since Sections 2.803 (b)-(f) allow devices to be demonstrated at trade shows and evaluated at manufacturers' or customers' premises under certain specified conditions, it can be assumed that importation of non-compliant RF devices for such purposes is allowed.

will ensure that there is fair competition in the equipment marketplace.

Respectfully submitted,

The Ericsson Corporation

A handwritten signature in dark ink, appearing to read "David C. Jatlow", written over a horizontal line.

David C. Jatlow
Its Attorney

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